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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,566	06/25/2003	Valerie Wittamer	9409/2045B	7945
29933	7590	09/15/2006	EXAMINER	
PALMER & DODGE, LLP KATHLEEN M. WILLIAMS 111 HUNTINGTON AVENUE BOSTON, MA 02199			LI, RUIXIANG	
			ART UNIT	PAPER NUMBER
			1646	

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/603,566

Applicant(s)

WITTAMER ET AL.

Examiner

Ruixiang Li

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 20, and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/07/2006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Status of Application, Amendments, and/or Claims**

The amendment filed on 06/27/2006 has been entered in full. Claims 1-10, 20, and 22 are pending. Claims 1-5, 10, 20, and 22 are under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

### **Withdrawn Objections and/or Rejections**

The rejection of claims 1-5 under 35 U.S.C. 101 has been withdrawn in view of the amended claims.

### **Information Disclosure Statement**

The information disclosure statement filed on 02/07/2006 has been considered by the examiner.

### **Claim Rejections under 35 U.S.C. § 102 (b)**

The rejection of claims 1-5 and 20 under 35 U.S.C. 102(b) as being anticipated by Nagpal et al. (*J. Invest. Dermatol.* 109: 91-95, 1997) is maintained.

Applicants argue that Nagpal et al. do not teach a polypeptide comprising all the limitations of the polypeptides instantly claimed. Specifically Nagpal et al. does not

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teach a polypeptide that binds specifically to a chemerinR polypeptide, as required by claim 1 and its dependent claims.

Applicants' argument has been fully considered, but is not deemed to be persuasive for the following reasons. The instant claims are drawn to an isolated peptide comprising SEQ ID NO: 61 and a composition comprising the polypeptide of SEQ ID NO: 61. The cited prior art teaches a polypeptide that comprises the polypeptide of SEQ ID NO: 61. Thus, the prior art teaches the same polypeptide, whereas any properties of the polypeptide are inherent to its structure.

**Claim Rejections under 35 U.S.C. § 102 (e)**

The rejection of claims 1-5, 10, 20, and 22 under 35 U.S.C. 102(e) as being anticipated by Lal et al. (US Patent Application Publication No. 2005/0084936 A1, publication date: April 21, 2005; 102 (e) date: December 31, 1997) is maintained.

Applicants argue that Lal et al. do not teach a polypeptide comprising all the limitations of the polypeptides instantly claimed. Specifically Lal et al. do not teach a polypeptide that binds specifically to a chemerinR polypeptide, as required by claim 1 and its dependent claims.

Applicants' argument has been fully considered, but is not deemed to be persuasive for the following reasons. The instant claims are drawn to an isolated peptide comprising

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SEQ ID NO: 61 and a composition comprising the polypeptide of SEQ ID NO: 61. The cited prior art teaches a polypeptide that comprises the polypeptide of SEQ ID NO: 61. Thus, the prior art teaches the same polypeptide, whereas any properties of the polypeptide are inherent to its structure.

### **Conclusion**

No claims are allowed.

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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**Advisory Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (571) 272-0875.

The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol, can be reached on (571) 272-0835. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please contact the Electronic Business Center (EBC) at the toll-free phone number 866-217-9197.

*Ruixiang Li*

Ruixiang Li, Ph.D.  
Primary Examiner  
September 5, 2006

RUIXIANG LI, PH.D.  
PRIMARY EXAMINER